

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GEORGE RODRIGUEZ,	§	
	§	
Plaintiff,	§	
	§	C.A. No. 06-2650
v.	§	JURY TRIAL DEMANDED
	§	
CITY OF HOUSTON, <i>et al.</i> ,	§	
	§	
Defendants.	§	

Stipulation of the Parties

On October 20, 2011, the district court entered its Reinstated Final Judgment. On October 21, 2011, the City of Houston filed its Second Notice of Appeal to the United States Court of Appeals for the Fifth Circuit. In light of these developments, and in the interests of efficiency and judicial economy, plaintiff George Rodriguez and Defendant City of Houston stipulate and agree as follows:

1. Plaintiff stipulates and agrees that he will not, at this point, move the district court to award additional attorneys' fees and costs for the time period between December 22, 2009, when the trial court entered its Amended Final Judgment and October 20, 2011, when the Court entered its Reinstated Final Judgment.
2. Instead, plaintiff may wait until the City's appeal to the Fifth Circuit and any proceedings in the United States Supreme Court are concluded. Upon conclusion of the appellate proceedings, if plaintiff is the prevailing party, plaintiff may then seek an award of additional attorneys' fees and costs, both for the December 22, 2009 through October 20, 2011 time period, and for the attorneys' fees and costs related to defending the City's second appeal. Nothing in this stipulation precludes plaintiff from seeking an award of

additional attorneys' fees and costs before any proceedings in the United States Supreme Court are concluded.

3. The City stipulates and agrees that it will not argue that plaintiff has in any respect waived the right to seek attorneys' fees or costs for the June 13, 2011 through October 20, 2011 time period by Plaintiff's not moving for such fees and costs at this time. The City reserves its rights to challenge any award of fees and costs, including a challenge to the reasonableness and necessity of the fees or costs requested, for the June 13, 2011 through October 20, 2011 time period on any grounds available to the City other than the basis of waiver.
4. The City also stipulates and agrees that it will not argue that plaintiff has in any respect waived the right to seek attorneys' fees or costs related to the City's appeals, on the ground that plaintiff was required to seek such fees or costs within 14 days of the October 20, 2011 Reinstated Final Judgment. The City reserves its rights to challenge any future request for fees or costs related to the City's appeals, on any other grounds, including on the grounds that plaintiff was not a prevailing party in the first appeal and on the basis of waiver predating October 20, 2011.

Respectfully submitted,

/s/ Alexander L. Kaplan

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CERTIFICATE OF CONFERENCE

I certify that, on November 3, 2011, I conferred with counsel for the City of Houston, Rick Morris, and plaintiff and defendant are in agreement regarding this stipulation.

/s/ Alexander L. Kaplan

Alexander L. Kaplan

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2011, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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/s/ Alexander L. Kaplan

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